

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 9, 10, and 62-66 are pending in the application, with claims 9 and 62 being the independent claims. Claims 1-8 and 11-61 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 9, 62, and 64-66 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Pat. No. 6,663,659 to McDaniel ("McDaniel") in view of U.S. Pat. No. 6,290,382 to Bourn *et al.* ("Bourn"). Applicant respectfully traverses, as one of skill in the relevant art would not be motivated to combine McDaniel and Bourn to produce a therapeutic light source.

Claim 9 recites, among other things, "one or more fans for cooling the first, second and/or third rigid arrays." Although McDaniel states that cooling devices may be used (*see*, McDaniel, col. 18, lines 2-3), the only description given for the type of cooling device that may be used indicates that it is used not only for cooling, but also to produce certain optical effects. Specifically, "cooling may be accomplished by various methods wherein a cooling apparatus utilizes a sealed chamber and liquid

coolant which also function to match the refractive index or to produce diffusion and thus illustrates an example of one way to achieve dual purpose with cooling agents" (col. 6, line 66 - col. 7, line 4).

Furthermore, the provisional application no. 60/176,175, filed January 13, 2000, to which McDaniel claims priority, states that there may be harm to the light source unless it is cooled with a special cooling system. Specifically, "cooling of the optoelectronic devices themselves may be desirable in order to allow them to be operated at higher voltage...which while producing greater energy output, may be damaging to the devices themselves unless special cooling is utilized. One option with such cooling is to use a refractive index matching fluid as the cooling agent." (See, Appl. No. 60/176,175, pg. 8).

Because McDaniel only discusses cooling systems in terms of the advantages of liquid cooling systems, McDaniel actually teaches away from the use of a non-liquid cooling system. Therefore, it would not have been obvious for one of skill in the art to combine McDaniel with a non-liquid cooling system, such as the fan cooling system discussed in Bourn.

Additionally, one of skill in the art would not have been motivated to combine McDaniel with Bourn, because Bourn is nonanalogous art. Bourn is directed to a machine vision system that uses LEDs input into a fiber optic bundle. Although these LEDs are cooled with a heatsink and fan, such a cooling system is ancillary to the overarching invention of Bourn, which is a fiber optic illuminator for a machine vision system. It would not have been obvious for one of skill in the therapeutic light art to look to the machine vision art to produce a therapeutic device.

For at least these reasons, Applicant respectfully submits that the combination of McDaniel and Bourn to produce a light source for therapy and/or diagnosis having "one or more fans for cooling the first, second, and/or third rigid arrays," as recited in claim 9 is improper. Claim 9 is thus patentable over the combination of McDaniel and Bourn. Reconsideration and withdrawal of the rejection of claim 9 is respectfully requested.

Claim 62 recites a light source for therapy and/or diagnosis, wherein "each said array includes means for cooling the diodes by forced air convection." For at least the reasons discussed with respect to claim 9, the combination of McDaniel and Bourn to produce a light source including means for cooling the diodes by forced air convection is improper. Claim 62 is thus patentable over the combination of McDaniel and Bourn. Claims 64-66 depend from claim 62, and are thus patentable over the combination of McDaniel and Bourn for at least the reasons discussed with respect to claim 62, and further in view of their own respective features. Reconsideration and withdrawal of the rejections of claims 62 and 64-66 are respectfully requested.

Claims 10 and 62-63 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over McDaniel in view of Bourn, and further in view of U.S. Pat. No. 6,450,941 to Larsen ("Larsen"). Applicants respectfully traverse.

Amended claim 10 depends from claim 9, and is thus patentable over the combination of McDaniel and Bourn for at least the reasons discussed with respect to claim 9, and further in view of its own respective features. As discussed above, claim 62 is also patentable over the combination of McDaniel and Bourn. The addition of

Larsen does not cure the impropriety of the combination of McDaniel and Bourn, as Larsen does not discuss any type of cooling system. Therefore, claims 10, 62, and 63 (dependent from claim 62) are patentable over the combination of McDaniel, Bourn, and Larsen for at least the reasons discussed with respect to claim 9, and further in view of their own respective features. Reconsideration and withdrawal of the rejections of claims 10, 62, and 63 are respectfully requested.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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